Recent Developments

TIPS GIVEN TO NEVADA CASINO DEALERS BY CASINO PATRONS ARE NONTAXABLE GIFTS, NOT INCOME—*Olk v. United States*, 388 F. Supp. 1108 (D. Nev. 1975).

INTRODUCTION

Each year millions of people are drawn to Nevada's gambling tables. While the lucky gambler's winnings are clearly taxable income,[1] the tax consequences are not so clear for the lucky dealer, who has been given a tip or the winnings of a side bet[2] placed for him. Until recently, this money was considered income taxable to the dealer as compensation for services rendered.[3] The United States District Court for Nevada in *Olk v. United States*[4] upset this rule when it decided that tokes[5] given to a

1. INT. REV. CODE OF 1954, § 61(a); INTERNAL REVENUE SERVICE, YOUR FEDERAL INCOME TAX 29 (1975). *See* Garner v. United States, 501 F.2d 228 (9th Cir. 1974); McClanahan v. United States, 292 F.2d 630 (5th Cir. 1961).

2. A side bet is a bet made for the dealer operating the game being played. If the bet is a winning one, its proceeds go to the dealer for whom it was made. *See* Lawrence E. Bevers, 26 T.C. 1218, 1219 (1956).

3. Lawrence E. Bevers, 26 T.C. 1218 (1956); INT. REV. CODE OF 1954, § 61(a)(1); Treas. Reg. § 1.61-2(a)(1) (1966).

4. 388 F. Supp. 1108 (D. Nev. 1975).

5. Tokes are a Nevada colloquialism for tips. This word was used by the court in *Olk* to avoid the conclusion that the receipt of money by a

dealer in a Nevada casino were not income because the dealer offered no compensable services to the players. Finding no social compulsion to give a toke to a dealer, the *Olk* court decided that tokes were gifts because the gambler/donor was motivated by "detached and disinterested generosity."[6]

Classifying dealer's tokes as gifts creates problems which were not specifically addressed in *Olk*. Since the owner of the money which produces the gambling income should be taxed on the resulting gain[7] or be able to deduct the resulting loss,[8] a determination of when the gift is complete is necessary to ascertain who owns the side bet. If the side bet is a complete gift upon placing the bet, the *dealer* is the owner of the money. Thus, he should have taxable gambling income or a deductible gambling loss. If the gift is incomplete until the bet is won, the *gambler* is the owner of the money and he should be taxed on the gain or be able to deduct the loss.

Olk v. United States

As a craps[9] dealer in two Las Vegas casinos, Wendell Olk had the job of collecting the dice after each roll, paying winning bets, and collecting losing bets.[10] In these casinos the dealers were forbidden to fraternize or carry on unnecessary conversations with the patrons.[11] Any money given to the dealers by the gamblers, including winnings from side bets, was pooled and divided equally among the dealers at the end of the shift. The management of the casinos either required the dealers to pool their tokes or encouraged them to do so.[12]

Based on an audit which revealed some tips which were not included in income, Olk was assessed almost $800.00 in additional

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dealer automatically constituted taxable income within the meaning of the INT. REV. CODE OF 1954, § 61(a). 388 F. Supp. at 1109.

6. Commissioner v. Duberstein, 363 U.S. 278, 285 (1960), *quoting* Commissioner v. LoBue, 351 U.S. 243, 246 (1956).

7. *See* Helvering v. Eubank, 311 U.S. 122 (1940); Helvering v. Horst, 311 U.S. 112 (1940). *See also* J. CHOMMIE, FEDERAL INCOME TAXATION 442 (2d ed. 1973); 2 MERTENS, LAW OF FEDERAL TAXATION § 18.02 (1974).

8. INT. REV. CODE OF 1954, § 165(d); Treas. Reg. § 1.165-10 (1960).

9. Craps is a gambling game played with two dice in which the "shooter" or roller attempts to achieve certain "points" or total showing on the dice. For a more detailed explanation *see* Drzazga, *Gambling and the Law-Dice*, 43 J. CRIM. L.C. & P.S. 405, 406-07 (1952).

10. Wendell Olk's other duties included calling the roll of the dice, making change for the players, advising his supervisor when a player wanted a drink, and answering basic questions about the game. 388 F. Supp. at 1109.

11. *See* note 27 *infra*.

12. 388 F. Supp. at 1110.

taxes. Olk paid the deficiency and filed suit when his refund claim was denied claiming that the money he received was a gift and not taxable income.[13] This argument is not new; it has been raised several times by waiters, cab drivers, and others in the service industry.[14] However, each time this argument has been raised, the courts have concluded that the money received was not a gift but was gross income as compensation for services rendered.

Dispelling the Tips-Are-Income Rationale

In *Roberts v. Commissioner of Internal Revenue*,[15] the Ninth Circuit held that tips were income because they were compensation for services. The taxpayer, a cab driver, failed to include the tips he received from passengers in his gross income. The court considered two previous Tax Court decisions[16] and the general nature of tipping[17] when it held that tips were income because "the giving of a tip is tied to the service, without which the occasion would not have arisen."[18]

The Tax Court in *Lawrence E. Bevers*,[19] a case involving facts similar to *Olk*, applied the *Roberts* rationale to casino dealers. Tips

13. *Id.* at 1109.

14. *See* Miller v. Commissioner, 327 F.2d 846 (2d Cir. 1964) (bookkeeper and headwaiter); Andrews v. United States, 295 F.2d 819 (Ct. Cl. 1961), *cert. denied*, 369 U.S. 829 (1962) (cab driver); United States v. Burdick, 214 F.2d 768 (3d Cir. 1954), *cert. denied*, 350 U.S. 831 (1955) (executive clerk in the New Jersey State Senate); Lawrence E. Bevers, 26 T.C. 1218 (1956) (dealer).

15. 176 F.2d 221 (9th Cir. 1949). Although *Roberts* is the leading case standing for the proposition that tips are includable in gross income as compensation for personal services, it has long been the Internal Revenue Service's position that tips were includable in gross income. *See* IRS News Release No. IR-284, *quoted in* 1959 CCH FED. TAX RPTR. ¶ 6428, which states that since the regulations have included tips as part of gross income since 1918, such an interpretation has acquired the force and effect of law.

16. Nazzareno D. Cesanelli, 8 T.C. 776 (1947) (failure to report tips warrants the imposition of a penalty); F.L. Bateman, 34 B.T.A. 351 (1936) (tips held to be a deductible expense).

17. Williams v. Jacksonville Terminal Co., 118 F.2d 324, 326 (5th Cir. 1941), *aff'd*, 315 U.S. 386 (1942), states that tips in the main are additional compensation.

18. Roberts v. Commissioner of Internal Revenue, 176 F.2d 221, 224 (9th Cir. 1949).

> [A] tip is connected directly with the service and its quality. He who tips expresses . . . his gratification with the service by compensating the servant over and above the regular remuneration for the service. *Id.*

19. 26 T.C. 1218 (1956).

received by dealers were held to be an incident of the services performed for the gamblers.[20] The court reasoned that these tips were

> obtained as a direct result of his employment . . . [and] came to him in his capacity of dealer, therefore we can only conclude that it [the tips] represented gains derived from his labor as a dealer.[21]

Examining this line of authority, the court in *Olk* concluded that the Tax Court in *Bevers* "misapplied the principles enunciated in *Roberts* . . . [because it] failed to take into account the uniqueness of a dealer's activities."[22] The *Olk* court distinguished the dealer's situation when it stated that most Tax Court decisions concerning tips were based on the general nature of tipping.[23] In contrast, the dealer's job was unique and the tips he received should not be treated the same as tips received by others in different callings.[24]

The court in *Olk* distinguished basic services and personalized services in deciding that tokes were not income. While basic services are rendered to the employer and offer only incidental benefit to the customer,[25] personalized services, which the employee can vary in impact and manner of performance, are rendered directly by the employee to the customer.[26] The dealer renders only a basic service because he is forbidden by the casino management from rendering personalized services[27] and because the patron's "satisfaction with a dealer's service is not dictated by the quality of the service itself, which does not vary, but by that

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20. The services to which Bevers' tips were said to be an incident of included dealing cards, spinning the roulette wheel, and paying winning wagers. *Id.* at 1220.

21. *Id.* at 1221.

22. 388 F. Supp. at 1111.

23. *Id.* at 1112.

24. *Id.*

25. *Id.*

26. *Id.*

27. The *Bevers* and *Olk* courts, although reaching different conclusions of law, both made a factual determination that dealers were forbidden from rendering special or personal services to the casino patrons:

> Fraternization and unnecessary conversation between the dealers and the patrons were forbidden by the management. The dealers were not permitted to advise the patrons of advantageous bets, all contact between them being reduced to an absolute minimum. Lawrence E. Bevers, 26 T.C. 1218, 1219 (1956).
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> If he attempts to render special service to a patron, a dealer is subject to immediate termination. He is forbidden to engage in the personable conduct which others rely on to obtain or increase the amount of a tip. He does not furnish a *personal service*, but merely carries out the duties of his employment. Olk v. United States, 388 F. Supp. 1108, 1112 (D. Nev. 1975).

phenomenon known as 'luck.'"[28] This decision was based on a factual analysis of the dealer's relation to the patrons.[29]

The outcome might have been different had the *Olk* court considered whether variations in basic services could cause a player to toke his dealer. A dealer could possibly vary the speed and friendliness[30] of his service within the management's guidelines. However, despite the friendliness of the dealer, it would seem unlikely that a losing player would toke a friendly dealer. Even so, losing players sometimes give tokes to dealers but generally in hopes their luck will change.[31]

Birth of the Tokes-Are-Gifts Rationale

Since the *Olk* court held that tokes were not income, the question became whether tokes should be classified as gifts.[32] The *Roberts* court rejected the gift classification because "[f]rom the very beginning of the practice [of tipping], it was evident that . . . it lacked the essential element of a gift,—namely, *the free bestowing of a gratuity without consideration.*"[33] Thus, under the *Roberts* rationale a tip was not a gift because it was usually given out of social compulsion, not disinterested generosity. The *Olk* court applied the *Roberts* rationale but came to a different result because dealers cannot "benefit from the 'social compulsion-tip' as can others."[34] This decision was based on testimony which established

28. 388 F. Supp. at 1112.

29. It is important to note that the evidence did not show that the dealers were undercompensated. They were

> paid a salary which they felt was fair and adequate for the functions they were to perform . . . . This is not a situation where the evidence justifies the inference that management used tokes as a camouflaged compensation and thus paid dealers lower wages than they otherwise would have had to pay. *Id.* at 1112-13.

The possibility of undercompensation must have been very small, as the Government did not even raise the point in its brief. *Id.* at 1113.

30. For example, a dealer could explain the rules in a friendly way or speed up the play when a gambler was on a lucky streak.

31. This conclusion is based on a telephone interview with a Las Vegas pit boss, a casino employee charged with direct supervision of dealers, conducted on October 4, 1975.

32. The court in *Olk* mentioned in a footnote that an inquiry would have been pursued into other possible Internal Revenue Code classifications had tokes not ultimately fallen into the gift classification. 388 F. Supp. at 1112 n.3.

33. 176 F.2d at 223.

34. 388 F. Supp. at 1112.

that only five to ten percent of the gamblers give tokes to dealers. The lack of peer pressure, combined with management forbidding the dealers from displaying any disapproval of a nontipper, eliminated any social compulsion to tip a dealer.[35]

Central to the gift classification of tokes is the intent of the player.[36] The toke must be a product of "detached and disinterested generosity [arising] out of affection, respect, admiration, charity or like impulses."[37] When the transaction is equivocal, "inquiry into motive and purpose . . . serves to expose the true nature of the transaction."[38] Testimony in the *Olk* case indicated there were a number of reasons for toking a dealer. Some players were motivated by sudden impulses of generosity to share their good fortune with dealers; other players gave money to dealers under the superstitious belief that "the recipient is 'lucky' for them"[39] and the toke would enhance the player's luck. The court found this irrational behavior "not an unusual occurrence in gambling casinos of Nevada."[40] Viewing this behavior, the court held that these spontaneous and superstitious impulses were forms of donative intent necessary to classify tokes as gifts.[41]

The gift classification can also be supported by an objective analysis of the anticipated benefit casino patrons generally expect. If they anticipate a benefit "beyond the satisfaction which flows from the performance of a generous act. . . ."[42] then their money given to dealers cannot be classified as a gift *unless* their expectation of economic benefit is *not* "within the power of the recipient to bestow directly or indirectly . . . ."[43] Since any economic bene-

35. Employees in other service industries can display disapproval of a nontipper by scowling or voicing verbal disapproval. Olk v. United States, 388 F. Supp. 1108, 1111 (D. Nev. 1975).

36. The most critical consideration in determining whether a gift has been made is the transferor's intention. Commissioner v. Duberstein, 363 U.S. 278, 285-86 (1960).

37. *Id., quoting* Commissioner v. LoBue, 351 U.S. 243, 246 (1956), *and* Robertson v. United States, 343 U.S. 711, 714 (1952).

38. Stubbs v. United States, 428 F.2d 885, 887 (9th Cir. 1970), *cert. denied*, 400 U.S. 1009 (1971). *See also* 1 MERTENS, LAW OF FEDERAL TAXATION § 7.13, at 48-49 (1974):

> If all of the essential elements of a valid gift are present the motives that prompted the donor to make the gift are immaterial. . . . Nevertheless, where there is doubt as to the nature of the transaction, the court may consider motive or purpose in determining its true intent.

39. 388 F. Supp. at 1113.

40. *Id.*

41. *Id.*

42. Collman v. Commissioner, 511 F.2d 1263, 1267 (9th Cir. 1975), *quoting* Harold DeJong, 36 T.C. 896, 899 (1961), *aff'd*, 309 F.2d 373 (9th Cir. 1962).

43. Collman v. Commissioner, 511 F.2d 1263, 1267 (9th Cir. 1975), *quoting*

fit to the patron is dependent on luck,[44] outside the dealer's control,[45] tokes must logically result from the player's gratitude for the luck the dealer has brought him or hopefully is going to bring him.[46] Therefore, since the dealer is unable to give anything in return for the toke, the gift classification is logically supportable.

SIDE-BET PROBLEMS

Because of the setback in *Olk*, the Internal Revenue Service can be expected to litigate the taxability of side bets. Since most players make side bets for the dealer rather than toking him directly[47] and since winnings from these side bets have been classified as gifts to the dealer,[48] most of the tax revenue lost because of the *Olk* decision will be from these side bets. There are two alternate methods of recouping some of this lost revenue but they are not without problems. One method would be to reclassify side-bet winnings from gifts to the dealer's gambling income. This would be possible if the side bet is considered complete when it is made since the dealer would be taking a gambling risk with his own money. The other possibility is to tax the *player* on the side-bet winnings. This would be possible if the side bet is considered complete when the side bet has won because it would be the player's property that generated the income. To consider these alternate sources of income, the point in time when the gift becomes legally complete must first be considered. The answer to this threshold question will determine the treatment of side-bet winnings and losses.

Stubbs v. United States, 428 F.2d 885, 887 (9th Cir. 1970), *cert. denied*, 400 U.S. 1009 (1971).

44. If the game was "21" or baccarat, economic benefit to the patron could also depend to some extent on his skill in playing the odds.

45. This assumes there will be no collusion between the player and the dealer. For example, the only way a dealer would be able to control the player's luck would be to help the player switch to loaded dice in a craps game or communicate the value of the cards in the dealer's hand in a "21" game. *See, e.g.*, NEWSWEEK, Sept. 17, 1973, at 83.

46. *See* text accompanying note 31 *supra*.

47. Telephone interview with a casino pit boss, *supra* note 31.

48. The *Olk* court combined side-bet *winnings* and money given directly to the dealers and called them tokes. 388 F. Supp. at 1110. The court went on to discuss tokes as if they were given directly to the dealer. No effort was made to differentiate the two forms of tokes. This eliminated any discussion of the possibility that side bets themselves could be gifts and the side-bet winnings could be gambling income to the dealer.

When Is the Gift Complete?

Although the Internal Revenue Code excludes gifts from gross income,[49] it does not define them. Thus, the local law of the situs of the gift must be consulted for the requisite elements.[50] In Nevada, a gift is valid if dominion and control over the property have been transferred to the donee, with the intent to transfer title absolutely without consideration.[51] Assuming, as established in *Olk*, that a gambler has the requisite donative intent, the question becomes whether dominion and control over the property have been effectively transferred. Considering side bets on any dealer-operated game in the casino, there are two transfers of money that could complete the side-bet gift. The first transfer occurs when the gambler places his side bet on the table.[52] The second takes place after the side bet has won and the dealer collects the winnings.

At the first exchange, the gambler places the side bet on the appropriate area of the table and informs the dealer that the side bet is for him. This action indicates the player's intent to make a gift[53] and shows delivery of the money. Since a bet cannot be revoked after the play has begun,[54] the gift would be complete only if the trier of fact found that the player had sufficiently relinquished dominion and control by placing the bet. The gift would also be complete if the trier of fact found a sufficient relinquishment of control coupled with an intent to create a trust.[55] The

49. INT. REV. CODE OF 1954, § 102(a).

50. 34 AM. JUR., *Federal Taxation* § 5040 (2d ed. 1975). *See also* Blair v. Rosseter, 33 F.2d 286 (9th Cir. 1929); 1 MERTENS, LAW OF FEDERAL INCOME TAXATION § 7.12 (1974).

51. Simpson v. Harris, 21 Nev. 353, 362, 31 P. 1009, 1011 (1893).

52. For example, each gambler seated around a "21" table has a space in front of him where his money is placed to indicate to the dealer that the gambler wants to have cards dealt to him.

53. The *Olk* court did not specifically consider *when* the player had donative intent in relation to a side-bet form of toke. *See* text accompanying note 55 *infra*.

54. Telephone interview with a casino pit boss, *supra* note 31.

55. It is interesting to note that if the gift were ineffective because of the player's failure to relinquish control over the bet, the transaction might be upheld as a gift of a beneficial interest by urging that it is a complete and irrevocable declaration of a trust. *See* A. SCOTT, ABRIDGEMENT OF THE LAW OF TRUSTS 80 (1960). The gambler would be the settlor and trustee, the dealer would be the beneficiary, and the side-bet money would be the res. If the requisite intent to create a trust could be established, the dealer would have a beneficial interest in the side-bet money. If the player has not retained excessive controls such as the power to revoke, the beneficial owner of the res should bear the tax burden of the income it generates. *See also* Helvering v. Clifford, 309 U.S. 331 (1940); J. CHOMMIE, FEDERAL

gift, however, probably occurs at a later time. The second transfer that could complete the gift takes place after the side bet wins. If the player wins, the dealer pays off the side bet with the casino's money. The dealer will then take the winnings and the original bet off the table and place them in a box where they are accumulated.[56]

There are three factors which show the gift is not complete until the side bet wins. First, in the games of "21" and baccarat, the gambler can exercise some control over the side bet by playing the cards dealt to the side bet.[57] Second, although a gambler playing *any* of the games *usually* allows the dealer to pick up the winnings when the play is over,[58] he has the power to instruct the dealer to leave the side-bet winnings on the table as another side bet.[59] Finally, the dealer cannot pick up the side bet *before* the play is over.[60] Therefore, it seems that the gift is not complete until at least the side-bet has won and the dealer is allowed to collect the side bet winnings.[61]

Because the gift is probably complete at winning, the player should be taxed on the resulting gambling income because it was his property that generated the winnings.[62] However, a factual determination that the player relinquished control when the bet was placed leads to a different result; the dealer should be taxed on the winnings as gambling income.

INCOME TAXATION 442 (2d ed. 1973). Thus, under either the trust or gift theory, the dealer will be taxed on the side-bet winnings only if the player has relinquished excessive control over the side bet.

56. Lawrence E. Bevers, 26 T.C. 1218, 1219 (1956).

57. Depending on his skill in playing the odds, a gambler has only *limited* control over winning. But in regard to losing, he has *ultimate* control as he can always take another card which would put him over 21.

58. Telephone interview with a casino pit boss, *supra* note 31.

59. Lawrence E. Bevers, 26 T.C. 1218, 1219 (1956).

60. Dealers are prohibited by house rules from touching bets until the play is over. It is also doubtful that a gambler would allow the dealer to pick up the side bet without the gambler being able to play the hand. Telephone interview with a Las Vegas pit boss, *supra* note 31.

61. The *Bevers* court, without explanation, stated that side-bet money remained the property of the player until he allowed the dealer to take it. 26 T.C. at 1219. The *Olk* decision implies the same result because the intention to make a gift was only discussed in reference to the money the dealer *received* from side bets. This implies that the gift intention occurred only after the side bet had won. 388 F. Supp. at 1108. *See* note 52 *supra*.

62. *See* authorities cited note 7 *supra*.

A similar analysis is applicable to side-bet losses. Since the gift is probably incomplete until the side bet has won, the player should be able to deduct the loss of the side bet.[63] As with side-bet winnings, a factual determination that the gift is complete when placed will allow the dealer a deduction for the side-bet loss. This result would not be affected by the dealers' practice of pooling their tokes because the total amount of the side-bet loss could be split among all the dealers who are eligible for a share of the tokes.[64]

Conclusion

When reviewing *Olk*, the Ninth Circuit Court will be hard pressed to avoid the *Olk* holding that dealers offer no compensable services to gamblers. Attempting to furnish luck is definitely not a compensable service. If the question becomes whether the gambler had the necessary donative intent, the *Olk* decision must be upheld because intent is a question of fact and the trial judge's decision that tokes are given spontaneously by superstitious gamblers is not clearly erroneous. However, the problem of how to treat side bets was not directly examined and is certainly open to limitation in the future.

The *Olk* court implicitly held that the gift is complete when the side bet has won because it concluded that side-bet *winnings*, not merely the bet itself, were gifts to the dealer. Any lost revenue caused by the *Olk* decision can be recovered by requiring gamblers to include side-bet winnings in their gross income. Even though side-bet winnings are now gifts rather than compensation for services, gamblers should still be able to deduct side-bet losses because they are incurred in wagering transactions.[65]

In addition to its immediate effect, the *Olk* decision may also have a national impact. For example, parimutual ticket clerks may benefit from *Olk* because good luck may prompt the purchaser of these tickets to give one to his seller. Likewise, card parlor dealers

63. Gambling losses may be deducted up to the amount of gambling income. Int. Rev. Code of 1954, § 165(d); Treas. Reg. 1.165-10 (1960). From a practical standpoint, it would be much easier for the player to keep track of side-bet losses than the dealer.

64. The Internal Revenue Service has allowed tokes that are earned by the dealer and pooled and split by the employer to be taxed to the dealer on his pro rata share rather than on a per person basis. *See* Lawrence E. Bevers, 26 T.C. 1218, 1219 (1956). This conflicts with Lucas v. Earl, 281 U.S. 111 (1930), holding that the person who performs personal services should be taxed on the income generated therefrom. This seems to imply that there is no difference in the type of service dealers can offer.

65. Int. Rev. Code of 1954, § 165(d); Treas. Reg. § 1.165-10 (1960).

should benefit from *Olk*. Certainly, other members of the service industry are likely to challenge the income classification of their tips.[66]

PHIL AURBACH

CALIFORNIA "CONSENTING ADULTS" LAW: THE SEX ACT IN PERSPECTIVE

A continuing debate has raged over the propriety of state regulation of the private sexual conduct of consenting adults.[1] It has been questioned whether the state should attempt to regulate sexual behavior by imposing criminal sanctions.[2] The California

66. Sidney Weidenfeld recently initiated a class action suit against the Commissioner of Internal Revenue on behalf of Gifts For Cabbies, an organization representing about 300 cab drivers. Hoping to benefit from the *Olk* decision, he alleged that drivers' tips are gifts. Las Vegas Review Journal, Sept. 27, 1975, at 3, col. 3.

1. Project, *The Consenting Adult Homosexual and the Law: An Empirical Study of Enforcement and Administration in Los Angeles County*, 13 U.C.L.A. L. REV. 643, 648 (1966). For an illustration of the continuing debate, *compare* G. MUELLER, LEGAL REGULATION OF SEXUAL CONDUCT (1961) *and* Williams, *The Proper Scope and Function of the Criminal Law*, 74 L.Q. REV. 76 (1958) *with* P. DEVLIN, THE ENFORCEMENT OF MORALS (1968).

2. Numerous recent articles have recommended that private consensual sexual behavior no longer be a criminal offense. *See* E. SCHUR, CRIMES WITHOUT VICTIMS 67-119 (1965); Fisher, *The Sex Offender Provisions of the Proposed New Maryland Criminal Code: Should Private Consenting Adult Homosexual Behavior be Excluded?*, 30 MD. L. REV. 91 (1970); Hefner, *The Legal Enforcement of Morality*, 40 U. COLO. L. REV. 199 (1968); Project, *supra* note 1; Comment, *Criminal Law—Consensual Homosexual Behavior —The Need for Legislative Reform*, 57 KY. L.J. 591 (1969); Comment, *Homosexuality and the Law—An Overview*, 17 N.Y.L.F. 273 (1971); Comment, *Sexual Freedom for Consenting Adults—Why Not?*, 2 PAC. L.J. 206 (1971); Comment, *Oral Corpulation: A Constitutional Curtain Must be Drawn*, 11 SAN DIEGO L. REV. 523 (1974); Comment, *Sodomy Statutes—A Need for Change*, 13 S. DAKOTA L. REV. 384 (1968).